



## **Zoning Bylaw Working Group**

Date: December 1, 2021  
Time: 8:30 AM to 10:00 AM  
Location: Conducted via remote participation;  
register or call in using the information below

**Attendees:** Eugene Benson, Stephen Revilak, Charlie Kalauskas, John Worden, Christian Klein, Pam Heidell, Ralph Willmer, Jennifer Raitt, Mike Ciampa, Kelly Lynema

### **DRAFT Minutes**

#### **1. Continuation of Zoning Audit, Zoning Bylaw Review, and Recommendations Discussion**

Jenny explained that the Redevelopment Board is holding informal conversations with individuals who have expressed interest or shared ideas for citizen petitions. At present, these have not been formatted into warrant articles. Once we have the warrant, the articles can be brought back to the group for discussion if the group desires.

The working group discussed ideas shared by working group members for potential amendments outside of the changes suggested by the zoning audit.

Christian explained his suggestions:

- Adjust Section 5.3.9.A, which allows an enclosed porch of 25 square feet or less otherwise you need a special permit. The ZBA sees many dockets requesting open porches or covered porches in the front yard setback. The ZBA includes conditions on these types of dockets requiring that if an applicant is building a new mudroom or porch on the front, it does not move what is considered a foundation wall of the house. He suggests allowing more porch construction by right with specific conditions.
- Amend Section 5.4.2(B)(6) to include "whichever is smaller". Christian would also like to discuss amending this section to be consistent with the Inspectional Services Department's (ISD) interpretation of what is included in that 750 square feet.
- Definition of foundation wall, a term which is used in the Zoning Bylaw but lacks a definition.

John said that foundation needs to be defined so that large additions can be better defined. Jenny noted that the ARB stated in their report to town meeting that they should defer to the state building code on the definition of foundation,

which was determined in consultation with ISD. MA state building code doesn't have a single definition of foundations, but rather devotes a chapter to it. ARB was concerned about what might have been excluded in the warrant article and any unintended consequences. Mike added that the building code recognizes anything being the lowest level of support for a structure to be part of a foundation system. If there is an end result that the Working Group desires then there may be a better way to go about it.

Jenny suggested that members who are interested in this article should work together to start drafting an amendment. Gene added that there is also an issue of whether the whole idea still makes sense in the today; he suggested that rather than trying to figure out how to refine "foundation", having a broader discussion about what people should be able to do with their houses that does and doesn't require a special permit may be more beneficial. Steve agreed, adding that people use their houses differently today than they did in the past. He stated that the idea of revisiting what people are allowed to do by right with their homes is appropriate.

Mike offered to speak offline with anyone who has questions or wants to work on this. Christian will work on drafting an amendment for 5.3.9(A) and 5.4.2(B).

Other amendments suggested by Christian:

- Amend Section 8.1.6(A) regarding nonconformities. The ZBA had a question about whether a situation where there was a existing nonconforming garage and the only nonconformity has to do with a nonconformity of the lot, then can the garage be worked on because it isn't a dwelling.
- Amend Section 8.1.5. There are cases where there is existing construction and a contractor determines that the structure is unsafe and wants to demolish it. Christian feels that the determination should be made by a structural engineer or inspectional services and the bylaw should be amended accordingly. Mike confirmed that the process desired is the one that is typically followed.
- Regarding "foundation wall" vs. "foundation", Christian asked if structures that have a porch can consider the porch the line where the foundation wall begins. Mike responded that the porch supports are considered part of the foundation system, and that if the intent is not to allow the porch to be considered as part of the house when making additions then he suggested approaching it from that perspective. Christian and Mike will discuss this topic and return to the Working Group with a proposal.

Christian suggested several changes formatting changes: using periods instead of hyphens in the index and correcting index links. These revisions can be made without requiring a bylaw amendment.

Pam is organizing documents to share and potentially draft amendments regarding Resilience Review. She will speak with Jenny and David Morgan (the

Town's Environmental Planner and Conservation Agent) offline. Steve asked to participate as well.

John shared his ideas for amendments:

- Adding page numbers to the bylaw. John feels that the current pagination using the "chapter-page" convention is confusing. Gene disagreed and noted that there are page numbers in the bylaw.
- Address climate change. Pam's suggestion on resilience relates to rebuilding houses, not just new construction, whereas net zero goes beyond her resilience review proposal. Jenny suggested that the Clean Energy Future Committee is best suited to discuss net zero in a way that is not exclusive to multi-family homes. Gene noted that he also is making suggestions regarding climate, which he has sent to the Clean Energy Future Committee. The document had been shared with the package of materials for the ZBWG's November meeting.
- Craft a bylaw for the MBTA overlay district that preserves present commercial area. Jenny noted that we do not have any regulations from the state to utilize in order to craft a bylaw. Ralph noted that DHCD sent an email stating there would be draft guidance by mid-December, followed by a comment period and finalization in January. They hope to have guidance related to housing choice in early 2022. This will be too late for Town Meeting; the soonest it could be discussed would be at a Special Town Meeting in 2022.

Steve shared his suggestions:

- 15-minute neighborhood ideas: make more things accessible by walking to reduce traffic congestion and vehicle emissions and promote active transportation. To accomplish this, businesses would need to be allowed in areas where they are currently not allowed. Steve noted that this is a high-level idea right now.
- Changes to commercial districts: Steve feels that the Town has done a lot to discourage commercial development over the past decades. Achieving a goal of a 10% tax base is not achievable unless we amend zoning to encourage businesses. He is curious if special permit requirements are prohibiting business development.
- Business community desires for changes to zoning: Steve noted that Ali Carter's memo regarding what the business community wants to change is worth exploring.

Jenny added that we could amend zoning for commercial, but if we don't allow things to happen fully or allow certain things by right, we may not achieve the community's goals. Just having a goal is not enough; it has to be achieved through incentives and process that allow us to get there.

Jenny would like to accomplish this in concert with a commitment from the Finance Committee. The Finance Committee could help us understand the value

that needs to be brought in to achieve financial stability for the town and help craft a plan to achieve those targets.

Steve added that if we have been shedding commercial base for 25 years and want to bring it back, we need to change things. He noted that the community needs to decide if that's what it really wants. If the Town doesn't want an increased commercial base, then Arlington would be fine without it. Overall, he would like to see more community input into what is desired.

Jenny is suggesting to the Redevelopment Board that the process to address issues in business districts requires setting a target and a goal. These changes would need to be more comprehensive than a zoning amendment. Need clarity regarding what we, the community, are trying to achieve is the first step.

John stated that it's more profitable for developers to build residential than build business. He feels that the Town needs to make it more attractive for business to come here and need to make it less attractive to build residential.

Jenny reminded the group that it would be helpful to understand the tipping point for commercial development to change the tax rate. Gene agreed that it is an important piece. At the moment it is more profitable to build residential than commercial; commercial market has substantially changed since we had a larger commercial tax base. This would be similar the Industrial Zoning District study: we need to have a picture of what the commercial market is, whether it is possible for us to even have the commercial the community might desire, and what do we need to do to get it. Without baseline information we are shooting in the dark. Jenny noted that there seemed to be agreement from the group that it is important.

Jenny shared that several residents are joining the ARB hearing on Monday night to share their ideas for amendments. She will also be sharing her own member for suggestions coming from the group and what could reasonably be achieved for Annual Town Meeting and what would need to be postponed.

## **2. Review minutes from November 10, 2021**

The spelling of Ralph's last name was corrected. On the minutes from November 10, 2021, the minutes were unanimously approved as amended.

## **3. 2022 Meeting Dates**

The Working Group agreed to continue meeting on the first Wednesday of the month at 8:30am.